UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Nos.: 3:08-CR-143-TAV-MCLC-1
	)	3:15-CV-130-TAV
DONALD RAY REYNOLDS, JR.,	)	
	)	
Defendant.	)	

MEMORANDUM OPINION AND ORDER

This case is before the Court on a *sua sponte* review of the record. On October 30, 2020, this Court denied petitioner's motion to set aside its February 26, 2018, order denying petitioner's motion to vacate, set aside or correct the judgment, pursuant to 28 U.S.C. § 2255 [Doc. 476].[1] Thereafter, without seeking a certificate of appealability ("COA") from this Court, petitioner filed a notice of appeal from this order [Doc. 478].

A petitioner may appeal a final order denying a § 2255 motion only if he is issued a COA, and a COA should issue only where the applicant has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(a), (c)(1)(B), (c)(2). This COA requirement applies equally in appeals of denials of motions Rule 60(b) motions filed in habeas cases. *United States v. Hardin*, 481 F.3d 924, 925–26 (6th Cir. 2007) (citing *Gonzalez v. Crosby*, 545 U.S. 524 (2005)). Further, a petitioner must present his request for a COA to the district court, before seeking a COA with the appellate court. *Kincade v.*

[1] Unless otherwise specified, all citations refer to Case No. 3:08-cr-143-1.

Sparkman, 117 F.3d 949, 953 (6th Cir. 1997). When a claim has been dismissed on the merits, a petitioner must show that reasonable jurists would find the assessment of the constitutional claim debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

For all the reasons explained in the Court's October 30, 2020 order [Doc. 476], reasonable jurists would not debate whether petitioner has established entitlement to relief from the judgment denying his § 2255 motion. Accordingly, the Court will **DENY** a COA for any appeal of that order.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE